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**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION**

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

WASHINGTON, DC 20554

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In the Matter of)	
Amendment of the Commission's Regulatory)	IB Docket No. 96-111
Policies to allow Non-U.S.-Licensed Space)	
Stations to Provide Domestic and International)	
Satellite Service in the United States)	
)	
and)	
)	
Amendment of Section 24.131 of the)	CC Docket NO. 93-23
Commission's Rules and Regulations to)	RM-7931
Eliminate the Licensing Requirement for)	
Certain International Receive-Only)	
Earth Stations)	
)	
and)	
)	
COMMUNICATIONS SATELLITE CORPORATION)	File No. ISP-92-007
Request for Waiver of Section 25.131(j)(1))	
of the Commission's Rules As It Applies to)	
Services Provided via the Intelsat K Satellite)	

**REPLY COMMENTS OF
MOTION PICTURE ASSOCIATION OF AMERICA, INC.
IN RESPONSE TO FURTHER NOTICE OF PROPOSED RULEMAKING**

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September 5, 1997

SUMMARY

As MPAA stated in its earlier comments filed in the Disco II proceeding, MPAA supports allowing non-U.S. satellite systems to serve the U.S. market. But, MPAA is unalterably opposed to granting entry to satellites licensed outside the United States if that country's marketplace is closed to, or severely restricts U.S. satellite systems that distribute video programming.

The Motion Picture Association of America (MPAA) strongly endorses the Commission's tentative conclusions in the Further Notice that the ECO-Sat test should apply to all requests for access by non-U.S. satellite systems for delivery of DTH-FSS, DBS, and DARS services for which the United States has taken an MFN exemption under the World Trade Organization's General Agreement on Trade in Services (GATS).

The goal of the ECO-Sat test should be to encourage other countries to open their markets to competition. Therefore, applications to provide DTH-FSS, DBS, and DARS services that are covered by bilateral satellite access agreements with the United States should not be subject to the ECO-Sat test.

Market access negotiations in the GATS are scheduled to recommence in the year 2000. MPAA recommends that the Commission include in its rules provisions for eliminating the ECO-Sat test, should future GATS negotiations yield market access commitments by WTO members that provide an open, competitive global environment with respect to DTH-FSS, DBS, and DARS services, allowing the United States to remove its MFN exemptions in these services.

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**REPLY COMMENTS OF
MOTION PICTURE ASSOCIATION OF AMERICA, INC.**

The Motion Picture Association of America, Inc. ("MPAA"), hereby submits this Reply to Comments filed by other parties on the Commission's Notice of Proposed Rulemaking, in the above-captioned proceeding.

MPAA is a trade association representing seven of the largest U.S. producers, distributors, and exporters of theatrical motion pictures, television programming, and home video entertainment. They include: Buena Vista Pictures Distribution, Inc. (Disney); Sony Pictures Entertainment Inc.; Metro-Goldwyn-Mayer Inc.; Paramount Pictures

Corporation; Twentieth Century Fox Film Corporation; Universal City Studios, Inc.; and Warner Bros.

Direct-to-home Fixed-Satellite Service (DTH-FSS) and Direct Broadcast Satellite Service (DBS) provide an important distribution medium allowing MPAA member companies to distribute their programming to greater numbers of customers in the United States and in markets around the world.

MPAA regrets that the WTO Basic Telecom negotiations failed to achieve commitments by other WTO members that would have ensured market access for DTH-FSS, DBS and DARS services. However, MPAA is pleased that the U.S. Government took a most-favored-nation exception that allows the Commission to use the market-opening tool available to it to continue working towards the goal of encouraging open markets for these services - an ECO-Sat test.

MPAA joins Hughes Electronics Corporation in stressing that the goal of the ECO-Sat test must be to "encourag[e] the development of competition in foreign satellite markets"¹ and not to protect or close off the U.S. market. Indeed, in previous comments filed in the Disco II proceeding, MPAA supported allowing non-U.S. satellite systems to serve the U.S. market.² However, the carrot of obtaining access to the U.S. market can provide a powerful incentive for foreign countries to re-examine their restrictive policies and move toward a more open regime.

There is a continuing need to encourage open markets for DTH-FSS and DBS services. During 1997 numerous foreign countries have adopted rules or initiated rule-making procedures that threaten access for U.S. DTH and DBS services providers. Argentina, Uruguay and India are three such countries. In all three countries, the initial rules that were proposed or adopted virtually shut out U.S. service providers. An ECO-Sat test will not solve the market access problems in all three countries, at least in the short run, since not all three countries are currently interested in providing DTH-FSS or DBS services in the United States. But, the desire to ensure access to the U.S. market has provided an incentive for one of those countries, Argentina, to explore the possibilities of concluding a bilateral satellite agreement with the United States and reconsider its own restrictive policies with regard to access for U.S. services providers.

¹ Hughes Electronic Corporation at 20.

² See Amendment of the Commission's Regulatory Policies to Allow Non-U.S. Licensed Space Stations to Provide Domestic and International Satellite Service in the United States, IB Docket No. 96-111, Reply Comments of Motion Picture Association of American, Inc. (filed August 16, 1996.)

The combination of an ECO-Sat test denying market access to applicants from countries that deny access to U.S. services providers, coupled with the ability for countries to enter into bilateral satellite services agreements with the United States is a winning combination which has already proven its worth. In bilateral negotiations during 1996 between the United States and Mexico, the lure of reciprocal access to each other's market provided the basis for both countries to agree to access rules for DBS that have already yielded beneficial results for companies of both parties to provide services in each other's markets. MPAA strongly supports the Commission's proposal not to apply the ECO-Sat test as part of its analysis to applications covered by bilateral satellite access agreements.³

Article XIX.1 of the GATS call for successive round of market access negotiations, beginning in the year 2000 and periodically thereafter. MPAA expects that a future round will provide commitments for real market access for DTH-FSS and DBS services in a critical mass of countries that will allow the United States to remove its MFN exemption for these services. Therefore, MPAA recommends that the Commission include in its rules provisions for eliminating the ECO-Sat test when access commitments by WTO members provide an open, competitive global environment with respect to DTH-FSS, DBS, and DARS services, allowing the United States to remove its MFN exemptions in these services.

MPAA notes that the Commission intends to address the specific foreign ownership and public interest rules that will be applied to DTH-FSS and DBS services in a separate Commission proceeding.⁴ We therefore only note that MPAA, in its previous filing, expressed its belief that it is essential to examine barriers to entry of U.S. content as part of the test of "effective competitive opportunities for U.S. satellites" ("ECO-Sat") for non-U.S. satellites wishing to provide video-delivery services in the United States.

Respectfully submitted,



Bonnie J. K. Richardson

³ See Amendment of the Commission's Regulatory Policies to Allow Non-U.S. Licensed Space Stations to Provide Domestic and International Satellite Service in the United States, Further Notice of Proposed Rulemaking, (rel. July 18, 1997) (Further Notice) at para 30.

⁴ Id. at para 22.